

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

UNITED STATES OF AMERICA,

v.

BUTTON JACK RHODES,

Defendant.

)
)
) Case No. 3:92CR70002-001
)

) **OPINION**
)

) By: James P. Jones
) United States District Judge
)

Button Jack Rhodes, Pro Se Defendant.

The defendant has filed a motion under 18 U.S.C.A. § 3582(c)(2) (West 2000 & Supp. 2012) seeking a reduction in his sentence on the basis of the Fair Sentencing Act of 2010 (“FSA”), P.L. No. 111-220, 124 Stat. 2372 (2010), which resulted in a reduction in the mandatory minimum sentences and guideline ranges for crack cocaine offenses. He seeks a retroactive application of the FSA to his sentence, which was imposed by judgment entered April 30, 1993, and relies on the recent case of *United States v. Blewett*, Nos. 12-5226, 12-5582, 2013 WL 2121945 (6th Cir. May 17, 2013) (holding that judicial enforcement of mandatory minimum crack sentences imposed prior to FSA would violate Equal Protection Clause), *reh’g en banc petition filed* (May 31, 2013).

Regardless of the merits of the decision in *Blewett*, the defendant is not entitled to any relief. He was not sentenced based upon the mandatory crack

minimums, nor did the quantity of crack cocaine attributed to him affect the calculation of his sentence. He was sentenced based upon the Career Offender guideline, together with a mandatory 60-month consecutive sentence for using and carrying a firearm during and in relation to a drug trafficking crime, pursuant to 18 U.S.C.A. § 924(c) (West 2000 & Supp. 2012).

For these reasons, the defendant's motion (ECF No. 16) will be denied.

DATED: June 18, 2013

/s/ James P. Jones
United States District Judge